

with respect to the collection of fees for services performed in connection with such representation:

(a) Notarial services will be performed by diplomatic or consular officers of the United States in connection with the representation of foreign interests as United States services, subject to the Tariff of United States Foreign Service Fees and all such fees shall be paid into the United States Treasury. Notarial services analogous to those performed gratis for American nationals under Items Nos. 25, 29, 38 and 39 of the Tariff of United States Foreign Service Fees may be performed gratis for represented nationals. United States Foreign Service fee stamps shall be used for such services; the services shall be entered in the regular "Record of Fees"; and each service shall be assigned a number from the regular series. Notarial services performed in connection with the representation of foreign interests shall be signed in accordance with the provisions of § 112.4 of this chapter, and the provisions of the Foreign Service regulations concerning notarial services shall be observed except where they are clearly inapplicable.

(b) All other services performed by diplomatic or consular officers of the United States in connection with the representation of foreign interests shall be performed gratis. Whenever the gratis service involves a document of any character, a notation to the following effect will be made on the document: "Performed gratis, subject to interested party's settlement with represented Government of fee prescribed by its Tariff." All such gratis services shall be numbered from a separate series of numbers for each Government represented and recorded in a separate Record of Fees headed "Services for the Government of -----" maintained for each Government represented. An extra copy of each such Record of Fees marked "Copy for the Government of -----" shall be submitted to the Department with the regular accounts in order that it may be forwarded to the other Government.

§ 105.22 *Fees of consular agents.* (a) Consular agents shall be entitled to retain as compensation one-half of the fees received in their offices provided that in no case shall such compensation exceed \$1,000 per annum. The balance of all fees received shall be accounted

for and paid into the Treasury of the United States. (22 U.S.C. 99.)

(b) For official services to American vessels for which no fees are charged consular agents who are compensated by fees must furnish the master of every such vessel with an itemized statement of the services performed on account of said vessel showing the fee prescribed by the Tariff of United States Foreign Service Fees for each service. If the amount received or due consular agents from regular fees collected by them is not equivalent to compensation at the rate of \$1,000 per annum, they will be allowed from the appropriation therefor such additional compensation as they would have received, and would have been entitled to retain to a maximum total compensation of \$1,000, but for the exemption of American vessels from the payment of such fees. (22 U.S.C. 89; 31 U.S.C. 725a (b) (5); 46 U.S.C. 101.) Such services will not be compensated unless they are necessarily rendered. (22 U.S.C. 89.)

(c) Consular agents shall account for fees collected and furnish reports of services to American vessels and seamen, including the fees prescribed therefor, and shall be compensated for such services in accordance with the provisions of the regulations in this part and the instructions of the Secretary of State.

#### DISPOSITION OF FEES AND OFFICIAL MONEYS

##### § 105.23 *Disposition of fees and other official moneys.*

CODIFICATION: In § 105.23 (a) (2), the words "disbursing officers" were amended to read "disbursing agents", by E.O. 9591, July 21, 1945, 10 F.R. 9205.

#### PART 111—NEGOTIATION OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS

CODIFICATION: The headnote of Part 111 was amended to read as set forth above, by Foreign Service Regulations S-1, Assistant Secretary of State, Mar. 23, 1945, effective Mar. 24, 1945, 10 F.R. 3176.

##### Sec.

##### 111.8 Agreements by exchange of notes. [Added]

§ 111.8 *Agreements by exchange of notes.* In case of an exchange of diplomatic notes constituting a definitive agreement or arrangement between the Government of the United States and a foreign government, there shall be sent

to the Department, as soon as practicable after the notes have been exchanged, a certified copy of the note addressed by the diplomatic officer of the United States to the officer of the foreign government together with the original of the note addressed by the officer of the foreign government to the diplomatic officer of the United States. A secretary of the mission should certify a copy of the foreign government's note for retention in the files of the mission. Certified copies of the notes should include such letterheads as may appear on the originals and the signatures, typed to accord with the originals. (R.S. 161; 5 U.S.C. 22. E.O. 9452, 3 CFR, 1944 Supp., as amended by E.O. 9514 and E.O. 9521, Title 3, *supra*) [Foreign Service Reg. S-1, Mar. 23, 1945, effective Mar. 24, 1945, 10 F.R. 3176]

## PART 112—INTERCOURSE WITH FOREIGN GOVERNMENTS

### Sec.

- 112.3 Representation of foreign interests; general nature of function. [Revised]
- 112.4 Assumption of representation. [Added]
- 112.5 Restrictions on diplomatic and consular officers in representing foreign interests. [Added]
- 112.6 Performance of services. [Added]

**AUTHORITY:** §§ 112.3 to 112.6, inclusive, issued under R.S. 161; 5 U.S.C. 22. E.O. 9452, 3 CFR 1944 Supp., as amended by E.O. 9514 and E.O. 9521, Title 3, *supra*.

**SOURCE:** §§ 112.3 to 112.6, inclusive, contained in Foreign Service Regulations S-2, Assistant Secretary of State, Mar. 27, 1945, 10 F.R. 3358, 3398.

§ 112.3 *Representation of foreign interests; general nature of function.* The representation of foreign interests is essentially friendly mediation on the part of one power (generally known as the "protecting power") in behalf of nationals or other interests of a second power (generally known as the "represented power") within territory subject to the sovereignty or control of a third power (which for convenience is referred to in these regulations as the "governing power"). While the representation of foreign interests involves primarily the exercise of good offices, it has become sufficiently formalized to permit of distinction between the occasional exercise of informal good offices and the more comprehensive forms of representation. The representation of foreign interests as-

sumes particular importance in time of war, when a neutral power undertakes in behalf of a belligerent power the care and protection of its interests within the territory of an opposing belligerent power. The representation of the interests of a foreign power at war with the country to which a Foreign Service officer is accredited or assigned calls for the exercise of special care in order to maintain his position as an officer of a neutral power whose interests it is his primary duty to conserve. The representation of foreign interests is not necessarily associated with a state of war, however, and may occur as a result of a severance of diplomatic relations or merely because the represented power chooses to withdraw, partially or fully, or not to establish, its own diplomatic or consular representation within the area where the representation of its interests is undertaken by a protecting power.

### § 112.4 *Assumption of representation.*

Except in extreme emergencies, American diplomatic and consular officers should undertake the representation of foreign interests only if specifically authorized by the Department of State to do so. A power seeking representation of its interests in a specified area by the United States generally addresses to the United States Government through the customary diplomatic channel a formal request to that effect. If the United States Government accedes to the request, the Department of State issues appropriate instructions to the American diplomatic and consular officers concerned. If requested by a diplomatic or consular officer of another power to undertake the representation of its interests within the country to which he is assigned, an American diplomatic or consular officer should suggest in reply that his colleague's government address the request to the United States Government through the customary diplomatic channel. He should at the same time report the matter fully to the Department of State, which if convinced of its urgency will usually authorize the provisional assumption of such representation pending the receipt of a formal request. The report to the Department should include information with respect to the following points:

- (a) The form of representation requested;